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C O N F I D E N T I A L SECTION 01 OF 02 MOSCOW 002723

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SUBJECT: INTEL'S CRYPTO IMPORTATION WAIVER: LESS THAN A  
BREAKTHROUGH

Classified By: Ambassador John Beyrle, Reasons 1.4 b&d.

11. (C) Summary: Intel representatives recently briefed us on the waiver it received to import 1,000 encrypted platforms for the development of software. Intel was able to by-pass the cumbersome licensing process by engaging in high-level lobbying and capitalizing on Russia's desire to become a "knowledge-based" economy. Contrary to recent Russian statements, this waiver does not appear to represent a breakthrough in the importation of commercial products with cryptographic content. Russia continues to operate under the old regulations; proposed new regulations do not meet the terms of the 2006 U.S.- Russia side agreement on cryptography. End Summary.

12. (C) On October 28 Emboffs met with XXXXXXXXXXXXXXXX to discuss Intel's recent waiver on importing cryptographic goods. Intel believes this breakthrough is one that other IT companies could piggy-back on. XXXXXXXXXXXXXXXX stated that the waiver allows Intel to import 1,000 development kits containing encrypted platforms necessary to design and develop software. The waiver allows the importation without the required laboratory analysis and approval by the Federal Security Bureau (FSB). However, the waiver allows only 1,000 units to be imported; if Intel needs to import more, they need to request a new waiver. The waiver applies to only one specific customs code (item), with no variations. As well, these cryptographic items can only be used in R&D; they cannot appear on the commercial market. Once Intel is finished with the platforms they must be submitted to a designated state-run industrial waste disposal company for their destruction.

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Background  
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13. (C) In 2006 Russia signed a side agreement to its WTO bilateral Working Party Agreement with the U.S. in which Russia agreed to streamline and simplify its procedures for the importation of items containing cryptographic information. Nearly three years later, progress in meeting the terms of this agreement has been slow and its results minimal. Russia's proposed new regulations do not meet the terms laid out in the side agreement or in WTO regulations. To date, companies still must follow the existing cumbersome rules in applying for permission to import items containing any level of cryptographic information, including cell phones. This permission request usually involves submitting samples of the item to an FSB approved laboratory for analysis, raising concerns about the violation of intellectual property through reverse engineering. So far, U.S. firms have not voiced major concern over this last

issue; rather, their focus has been on the time consuming process for the importation of crypto-related products. Current procedures take six months to complete and must be done for each shipment.

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What It Took to Get the Waiver  
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¶4. (C) In order to get the waiver, Intel capitalized on the GOR's desire to develop Russia as a knowledge-based economy. Several high-level Intel officers, including CEO Craig Barrett, and other officials, such as American Chamber of Commerce President Andrew Somers, highlighted to their GOR interlocutors, including President Medvedev, the role Intel plays in employing over 1,000 Russian engineers. Intel's advocates emphasized that if Intel could not quickly import these development kits, there would be no programming work available and Intel would have to lay off over 200 engineers. In addition, R&D work in Russia would have to move to India or China. This high-level lobbying secured Intel a meeting with key FSB officials to explain its needs. Intel was able to demonstrate the reasonableness of its request and, as a result, by-passed the current extensive licensing requirement.

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But It Does Not Solve the Crypto Problem  
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¶5. (C) XXXXXXXXXXXX highlighted however, that this breakthrough does not apply to Intel's commercial products. He stated that Intel is currently evaluating options for approaching

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the GOR on how to expedite importation of cryptographic commercial products, a significant source of Intel's sales revenue. The procedures that Russia agreed to change in 2006 remain in place three years later. Recently proposed new regulations do not appear to significantly reduce the need to apply for permission for each shipment of goods with cryptographic components.

¶6. (C) During a July visit, USTR Russia and Eurasia Director Elizabeth Hafner raised concerns with the FSB and the Ministry of Economic Development (MED), that the proposed new regulations, if implemented without revision, would set up Russia to be in violation of WTO regulations from the moment of its accession. MED understood the situation, but felt that it might be more effective to implement the new procedures, see where there are problems and fix them as they appear. To date, we have not seen a more recent version of the proposed new regulations for the importation of cryptographic goods to see if the FSB took USG comments under advisement.

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Comment  
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¶7. (C) During several recent high-level meetings between U.S. and Russian interlocutors, the Russians have highlighted the Intel waiver as a major breakthrough in Russia's trade regime dealing with cryptographic goods, and thus a step forward on their WTO to-do list. The information from Intel, however, indicates this is a specific, limited waiver only for use in R&D. While this does demonstrate some limited flexibility on the part of the FSB - and thus a step forward ), whether other U.S. companies can receive similar waivers remains to be seen. Additional GOR actions will be required to streamline Russia's procedures for the importation of cryptographic goods for commercial sale. Russia continues to lag in the timetables and provisions it agreed to in the 2006 side-agreement on cryptology. Embassy will follow-up with the FSB and MED officials, to urge implementation of the 2006 side-agreement, especially with regard to commercial goods.  
Beyrle